

**TOWN OF SULLIVAN
ZONING BOARD OF APPEALS
FEBRUARY 10, 2022
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:00 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Bryan Bendixen and Attorney for the Board Richard Andino.

Absent: Members Michael Keville and Clifford Reals

Also present: Larry Ball, Building/Codes Inspector

PUBLIC HEARING

7:00P.M. – VICTOR VALENSON: (1441 ROUTE 31, 9.12-1-3) AREA VARIANCE TO ALLOW A SETBACK OF 7/10' OF THE ONE FOOT REQUIRED SETBACK AND TO ALLOW A 52" CHAIN LINK FENCE IN FRONT/SIDE YARD.

The Applicant's girlfriend, Eileen O'Shaugnessy, appeared on behalf of the Applicant, Victor Valenson, seeking two variances to construct a fence along the front and rear yard: a setback variance to allow for the fence to be located 0.7' and 0.8' from the property line when a 1' setback is normally required and a height variance to allow for a 52" high fence in the front yard where only 48" high fences are permitted by the Zoning Code. The Applicant was not aware he needed a permit and started the fence. The fence is 80% to 90% installed and received a stop work order from the Code Enforcement Officer. The barn on property is not in good condition and they are in the process of repairing it for future use. The neighbor's kids and dogs come on the property and they wanted the fence to prevent that especially because of the deteriorated condition of the barn.

Building/Codes Inspector Larry Ball measured the setback of the fence from the survey on file for the barn renovations. The fence is one continuous line front to rear. The whole fence needs 4 inches of relief from the property line. There is 5 feet between the fence and barn. Also needed is a 4 inch variance for the height of the fence in front and side yard.

Edward Kearney the neighbor at 1447 Route 31 is concerned because the property is unoccupied and the barn is unsafe in its current condition. His driveway is right next to the fence and it is difficult to move the snow.

Larry Farnsworth the neighbor across the street at 1444 Route 31 said it looks like there is 4 to 5 feet between the barn and the fence to him. He feels the fence is a good idea because the barn is in such bad shape and the chain link fence looks good. He also stated he had his property re-surveyed recently and there is a lot of differences with properties in this area from previous surveys.

Chairman Steve Durfee explained that the Board looks at how much relief they are asking for when making their decisions. A 6 ft. fence is allowed from back corner so it looks like relief of 4 inches is needed for 442 feet of fence to Route 31. Larry Ball said the survey shows the starting point of the property at Route 31.

Member Bendixen asked Mr. Kearney when taking the kids/dogs out of the picture what does he feel with the structure of the fence looking at the narrow perimeter and only looking at the height and property line. Mr. Kearney said he is alright with the fence if moved as his driveway is right there. He has no issues with the height, just the location on the line and close to Route 31.

The Madison County Planning Board returned the application for Local Determination.

The Town of Sullivan Planning Board referred the decision to the ZBA.

No one else spoke for or against the application. A motion was duly made by Member Bendixen, seconded by Member Manning and unanimously passed to close the public hearing at 7:25 PM

OLD BUSINESS

VICTOR VALENSON: AREA VARIANCE (1441 ROUTE 31, 9.12-1-3) TO ALLOW A SETBACK OF 7/10' OF THE ONE FOOT REQUIRED SETBACK AND TO ALLOW A 52" CHAIN LINK FENCE IN FRONT/SIDE YARD.

The Board declared itself lead agency, the application to be an Unlisted Action and issued a Negative Declaration for purposes of SEQRA. The Board jointly reviewed the criteria for the granting of the area variances: Height: (1) the Board discussed that no undesirable change would be produced in the character of the neighborhood because there would no sight line issues or traffic concerns and the height request is minimal in nature; (2) the benefit could be sought be a feasible alternative but not a determining factor; (3) the requested relief is only 8.3% and is insubstantial; (4) no environmental impacts were identified; and (5) the hardship was self-created as the fence was installed without a permit and in violation of the height limitation – Setback: (1) no undesirable change would occur from the 4" setback difference as such difference is visually imperceptible; (2) the benefit could be achieved be a feasible alternative; i.e. the Applicant could move the fence back and there is sufficient space to do so; (3) the requests are substantial – approximately 30% and 20% depending on the location of the fence; (4) no environmental issues were identified; (5) the hardship was self-created as the fence was installed without a permit and in violation of the setback requirement. In light of two Board members being absent, the Board decided to table its decision until the next meeting.

APPROVAL OF MINUTES

A motion was duly made by Member Manning, seconded by Member Bendixen and unanimously passed by the Board approving the minutes of December 9, 2021.

ADJOURNMENT

A motion was duly made by Member Bendixen, seconded by Member Manning and unanimously passed to adjourn the meeting at 7:55 P.M.

Respectfully Submitted
Jeri Rowlingson, Secretary